

## COMMENTS

The enclosed is responsive to the Examiner's Final Office Action mailed on September 9, 2005 and is being filed pursuant to a Request for Continued Examination (RCE) as provided under 37 CFR 1.114. At the time the Examiner mailed the Final Office Action claims 1-14 and 16-45 were pending. In response the Applicant has: 1) amended claims 1, 16, 22, 28, 34, 35 and 39; and, 2) has not canceled nor added any claims. As such claims 1-14 and 16-45 remain pending. The Applicant respectfully requests reconsideration of the present application, and the allowance of all claims.

### 35 USC §112 rejections

Claims 1, 2, 16, 22, 34, 35, 39 and 45 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, the Applicant has amended claims 1, 16, 22, 28, 34, 35 and 39 to overcome the rejections. As a result, claims 1, 2, 16, 22, 34, 35, 39 and 45 have overcome the §112 rejections, and are believed to be patentable.

### 35 USC §102(e) rejections

In the final Office Action, the Examiner rejected claims 1-14, 16-25, 27-36 and 39-44 as being anticipated by U.S. Patent 5,878,228 by Miller et al. ("Miller") for the same reasons as asserted in his previous Office Action mailed on 12/21/2004 (see the Final Office Action, pages 4-13 and the previous Office

Action mailed on 12/21/2004, pages 2-12). The Examiner also rejected the Applicant's response to the previous Office Action as not persuasive, and made further remarks thereof (see the Final Office Action, pages 15-16). Applicant respectfully traverses the rejections and arguments in the Final Office Action.

With respect to the Examiner's arguments in the Final Office Action, the Applicant respectfully submits that the Examiner's sole basis in supporting the rejections is that the present application's claim language "a portion of a response to a request" (as recited in claim 1) would include "a portion that is a full portion (complete response)" (see the final Office Action, page 15, the last three lines).

In response, the Applicant amended claim 1 to include the limitation suggested by the Examiner. Notably, claim 1 now essentially recites:

"a request message from said client to said server over a network, wherein said request message asks for a **first portion of a response to said request, wherein said first portion is less than the full size of said response**"  
(emphasis added).

The Applicant respectfully submits that the BLAST protocol disclosed by Miller does **not** disclose, teach or suggest a client in a client-server system specifying the maximum size of **only a portion of a complete response** to a request. Specifically, the numBytes parameter disclosed at Col. 6, lines 52-55 of Miller specifies the size of the complete server's response and not just a portion of the server's response. Therefore claim 1 is patentable over Miller.


Similarly, Applicant has also amended claims 16, 28 and 39 to include the limitation "said first portion is less than the full size of said response". Thus,

these independent claims are also patentable over Miller for the same reason discussed above.

Because the Applicant has demonstrated the patentability of all pending independent claims, the Applicant respectfully submits that all pending claims are allowable. The Applicant's silence with respect to the dependent claims should not be construed as an admission by the Applicant that the Applicant is complicit with the Examiner's rejection of these claims. Because the Applicant has demonstrated the patentability of the independent claims, the Applicant need not substantively address the theories of rejection applied to the dependent claims.

If there are any additional charges, please charge them to our Deposit Account Number 02-2666. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Robert B. O'Rourke at (408) 720-8300.

Respectfully submitted,  
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Dated: 10/3, 2005   
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